

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL
CITY OF BEE CAVE
November 12, 2013

STATE OF TEXAS §

COUNTY OF TRAVIS §

Present:

Caroline Murphy, (Mayor arrived at 7:08)
Zelda Auslander, Council Member
Michelle Bliss, Council member
Bill Goodwin, Council Member
Kara King, Council member

Absent:

Steve Braasch, Mayor Pro Tem

City Staff:

Frank Salvato, City Manager
Travis Askey, Assistant City Manager
Patty Akers, City Attorney
Kaylynn Holloway, City Secretary
Lindsey Withrow, Director of Planning and Development
Katherine Griffin, Director of Finance
Vincent Montez, Police Lieutenant
Giancarlo Patino, City Engineer
Stephen Myrick, Building Official

MOTION: A motion was made by Council Member Goodwin, seconded by Council Member Auslander, to allow Council Member Goodwin to preside at this meeting.

The vote was taken on the motion with the following result:

Voting Aye: Council Members Auslander, Bliss, Goodwin and King
Voting Nay: None
Absent: Mayor Murphy and Mayor Pro Tem Braasch

Call to Order and Announce a Quorum is Present

With a quorum present, the regular meeting of the Bee Cave City Council was called to order by Council Member Goodwin at 6:02 p.m. on Tuesday, November 12, 2013 in the Council Chambers of the City of Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas.

Pledge of Allegiance

Citizen Comments

Barbara Hathaway, Library Director, reported on the car show held at the Hill Country Galleria and accepted a donation in the amount of \$5,000.

Carroll Killebrew, 5410 Great Divide, reported that there was a problem with the light at the intersection of Highway 71, Shops Parkway and 620.

Consent Agenda.

- A. Consider approval of minutes of the Special Session conducted on October 21, 2013.
- B. Consider approval of minutes of the Regular meeting conducted on October 22, 2013.
- C. Consider approval of minutes of the Special Session conducted on October 28, 2013.

MOTION: A motion was made by Council Member Auslander, seconded by Council Member Bliss, to approve consent agenda items 5B and 5C.

The vote was taken on the motion with the following result:

Voting Aye: Council Members Auslander, Bliss, Goodwin and King
Voting Nay: None
Absent: Mayor Murphy and Mayor Pro Tem Braasch

The motion carried.

Council Member Goodwin stated that he was present at the meeting on October 21st but the minutes reflected that he was absent.

MOTION: A motion was made by Council Member Auslander, seconded by Council Member King, to approve consent agenda item 5A as amended.

The vote was taken on the motion with the following result:

Voting Aye: Council Members Auslander, Bliss, Goodwin and King
Voting Nay: None
Absent: Mayor Murphy and Mayor Pro Tem Braasch

The motion carried.

Discuss and consider action on Ordinance No. 170, an ordinance annexing into the city limits approximately 139.778 acres of land which is generally located north and south of Hamilton Pool Road approximately 900 feet west of Cueva Drive including approval of a service plan. Planning and Development Director Lindsey Withrow presented this item.

Director of Planning and Development Lindsey Withrow reported that within this area, “1B,” there are five properties totaling 128.3 acres that are Ag exempt, collectively owned by the Grumbles family and operated by them as a working ranch. They have agreed to enter into a Development Agreement with the City. Therefore, the acreage of their land is not counted against the city’s maximum annual annexation cap—10% of the land area of the City limits or, for Bee Cave, 337.5 acres. The amount of land to be annexed by Ordinance No. 170 is 11.522 acres.

MOTION: A motion was made by Council Member Auslander, seconded by Council Member Bliss, to approve Ordinance No. 170.

The vote was taken on the motion with the following result:

Voting Aye:	Council Members Auslander, Bliss, Goodwin and King
Voting Nay:	None
Absent:	Mayor Murphy and Mayor Pro Tem Braasch

The motion carried.

Discuss and consider action on change order #1 and update on the 2013 Bee Cave street rehabilitation project for Juniper Trace and the Police Department parking lot.

City Engineer Giancarlo Patino presented this item.

MOTION: A motion was made by Council Member Auslander, seconded by Council Member King, to approve the change order with Ramming Paving Company in the amount of \$3,575.00.

The vote was taken on the motion with the following result:

Voting Aye:	Council Members Auslander, Bliss, Goodwin and King
Voting Nay:	None
Absent:	Mayor Murphy and Mayor Pro Tem Braasch

The motion carried.

Discuss and consider action on Addendum 1 of the Interlocal Agreement with the City of Lakeway for Dispatching Services.

Lieutenant Montez presented this item.

MOTION: A motion was made by Council Member King, seconded by Council Member Auslander, to approve the Addendum 1 of the Interlocal Agreement for dispatching services.

The vote was taken on the motion with the following result:

Voting Aye: Council Members Auslander, Bliss, Goodwin and King
Voting Nay: None
Absent: Mayor Murphy and Mayor Pro Tem Braasch

The motion carried.

Discuss and consider action on the 2014 Holiday Calendar.

MOTION: A motion was made by Council Member King, seconded by Council Member Bliss, to approve the 2014 Holiday Calendar and to move the November 11, 2014 Council meeting to November 10, 2014.

The vote was taken on the motion with the following result:

Voting Aye: Council Members Auslander, Bliss, Goodwin and King
Voting Nay: None
Absent: Mayor Murphy and Mayor Pro Tem Braasch

The motion carried.

Discussion on the Hatchet tract development located on Hamilton Pool Road. (Masonwood West).

Council Member King stated her reasons for placing this item on the agenda. She commented that this property is not in the City of Bee Cave nor is it in the City's ETJ so as a Council they do not have direct authority over the development.

Council Member Goodwin gave the location of the property and stated that the proposed tract is approximately 900 acres. He invited citizens to make comments.

Dean Appling, 13105 Roundtop Circle, stated that they are very concerned about this development mainly because of the density and the lack of utilities in the area.

Lisa Rhoden, 7111 Destiny Hills Drive, stated that she was concerned about their quality of life if this project is built. She commented that she was concerned about the density, the impact on the schools and the fact that a wastewater treatment plant is proposed on top of Little Barton Creek.

Carroll Killebrew, 5410 Great Divide, stated that the City has two appointees on the Public Utility Agency and they represent the interest of Bee Cave and its immediate neighbors. He

stated that the development would be a drain on a limited and valuable water supply. He asked that the City encourage the PUA to be very conservative and prudent in terms of allocating those resources.

Veronica Putney, 13308 Overland Pass, commented that the owners of the Hatchett development should be required to sign a nuisance agreement just like others have been required to do. She stated that the development was too dense and that the two lanes of Hamilton Pool Road could not handle thousands of people.

James Rudnicki, 7809 Lynchburg Drive, stated that he was opposed to the development of Masonwood West. He stated that this development should look like other quality developments in the area with lots that are one acre and above. He reminded the Council of their slogans when they ran for office.

Michelle Williams, 13500 Saddleback, stated that she was opposed to the Hatchett development and thanked the Council for listening to what the citizen's thoughts are about this development. She encouraged the Council to let the other authorities, who will be looking at this development, know about the opinions of the citizens.

Karen Schultze, 8016 Magnolia Ridge Dr., stated that she lives in Belvedere and she and her neighbors are very concerned about the project. This change in their area is happening very drastically and quickly. She asked the Council to influence whoever they can to let them know this development is not good for the area.

Mayor Murphy arrived at 7:08 p.m.

Don Walden, 813 Sunfish, stated that as a developer he is appalled by this proposed development on the Hatchett Tract. It brings low end tract crowded housing and not of the same quality of the other developments that have occurred in this region. When a waterline was proposed down Hamilton Pool Road, the owners were invited to participate in the cost of that waterline but they were required to develop according to certain standards. The water conservation measures were very strict as well as the Fish and Wildlife Memorandum of Understanding. Mr. Hatchett did not participate and did not have to sign up to follow all of the restrictions. Mr. Walden asked that the same development restrictions be imposed on the Hatchett Tract.

Linda Lowenthal, 9600 Crumley Ranch Road, opposed the Hatchett development. She stated that it was totally out of character for what is acceptable in the area.

Steve Albert, 5308 Great Divide, commented that he was a Lake Travis Fire Rescue Fire Commissioner. He stated that the district has received a preliminary plat and is in discussion with the developer regarding various issues related to the fire code. He stated that he and many others are opposed to the Hatchett development. The development will increase the population by over 5,000 in the next 10 years. He asked the Council to think regionally before they we can act locally.

Don Rauschuber, General Manager of the West Travis County Public Utility Agency, reported on the current status of the application submitted by Jim Meredith with Masonwood Development. He emphasized that the application for service availability is a term sheet that is highly qualified. It is not an approval and is conditioned upon the applicant and based on the PUA Board of Director's requirements and will be memorialized in a non-standard water service agreement which is a contract. The PUA does not have land use controls. They rely on the regulatory agencies that do. This particular footprint will probably have two to three different jurisdictional reviews.

Mr. Rauschuber fielded numerous questions from the City Council.

Cristy Muse, 3300 Crosswind Drive, stated that during the Legislative Session she met with the attorneys for the PUA because she had a lot of concerns about the legislation they were seeking to expand their powers. The attorneys told her, less than a year ago, that the purpose of the PUA was to honor the commitments that were in place that the LCRA made and not to grow and expand. She stated that she finds this troubling because the PUA would have known about this development. She urged the Council to form a Resolution to take to the Commissioners. The Hatchett tract needs the letter of intent from the PUA to get the ball rolling. She asked that they look at this very carefully.

Kathie Hanson, 16400 Hamilton Pool Road, stated that she was very concerned about run-off and pollutants into the Little Barton Creek watershed.

Nell Penridge, Hamilton Pool Road, commented that the fire protection is a concern. ESD 6 has moved the planned development of a new fire station until 2023. There is no planned fire station for that section of Hamilton Pool Road.

Maura Eurick, 20314 Hamilton Pool Road, stated that the development is appalling on so many levels and that there is no way they can meet pervious coverage requirements.

Executive Session:

The City Council closed the Open Session at 7:52 p.m. to convene in Executive Session in the Conference Room.

At this point in the meeting, Mayor Murphy publicly announced that a closed, executive session would be held and identified the sections of the Open Meeting Law under which the meeting would be held.

Open Executive Session. Executive session in accordance with the Texas Government Code, Section 551.071 - Consultation with Attorney in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. The Council may adjourn into the Conference Room for the executive session.

The City Council closed the Executive Session at 8:16 p.m. and reconvened in Regular Session in the Council Chambers.

Mayor Murphy stated that the Council would like to direct staff to develop a very strongly worded Resolution incorporating many of the comments and the themes that were expressed, and the Council agrees. The Council will then adopt and put forward this Resolution.

Discuss and consider action on the preliminary plat for Covert Bee Cave Subdivision, located at 15900 State Highway 71 West in the City of Bee Cave.

Ms. Withrow presented this item. The property is being platted as a single lot that will include two car dealerships, a service center, a parking garage for inventory, and a fuel station. All of the aforementioned structures are situated within an approximately 8 acres 'development envelope' fronting Highway 71. The remainder of the site is restricted by a landfill easement.

The most recently completed Traffic Impact Analysis (TIA), the one that was reviewed by the City's third party engineer, was submitted and had a series of requirements for the circulation infrastructure. The two driveways located wholly on the Covert tract are being recommended to be right in, right out only. The TIA also recommended a signalized intersection be added. In order for the applicant to use the entrance by Nitro Swim as proposed in their October 15 TIA, they must execute joint access agreements with the owners of Lots 1 (undeveloped, immediately east), 2 (Nitro), and 3 (Hill Country Golf and Guitar) of the Summit 56 Plat.

Staff also required a note be added to the preliminary plat stating *"Building Permits shall not be issued by the City of Bee for construction of any structures located on the property encompassed within this Subdivision until such time as all on site or offsite traffic control signals, devices, highway construction requirements and any access roads leading to the traffic control devices and signals described in the Traffic Impact Analysis Study dated October 1, 2013 and on file with the City of Bee Cave are constructed and fully operational."*

The applicant resubmitted a response on November 8th. The applicant stated that they are in the process of acquiring a separate joint use access easement and "will provide it as a condition of the issuance of building permits as provided in the revised note." The revised note (25) does not match the wording staff required—they have added their own caveat to obtaining the easement— "if and as needed for legal access." They have not removed the 50' joint access easement shown on the plat as was required in a staff comment.

The Planning & Zoning Commission unanimously recommended denial at their November 5th meeting.

Kenny Watkins, representing Covert and Engineer with Bleyl & Associates, stated that the preliminary plat meets all of the requirements of the ordinances of the City of Bee Cave. The plat complies with the code by the applicant agreeing to the requested or contemplated traffic control improvements.

Ben King, 16005 Snowdonia Cove, commented that he was not a fan of this development. The TIA is presented in a way to mitigate risk but there are certain things that have to happen in

order for the TIA to apply to the plat and make sense. People would be exiting the property over to the Vail Divide light so anyone wanting to go east would turn into Vail Divide and turn around. This would cause a massive increase of traffic in the neighborhood. From a safety perspective the TIA does not work. He read a letter from Rich Phillips, owner of the Hill Country Golf and Guitars and sole owner of Lot 3, Summit 56. Mr. Phillips wrote that he did not support and has not granted nor intended to grant access to this joint access easement.

Dean Appling, 13105 Roundtop Circle, stated that he is opposed to the Covert development because of the traffic, safety, lighting, noise and water quality issues.

Mike Goolsby, 4933 Pyrenees Pass, commented that Covert has a misrepresentation on the plat. It is filed as a subdivision and it is a car dealership.

Carroll Killebrew, 5410 Great Divide, commented that the Coverts could be good neighbors. Their behavior over the last year has amplified and fueled opposition to this development. This is a bad development in many ways.

Veronica Putney, 13308 Overland Pass, commented that Highway 71 is not an interstate. If Covert is offending and antagonizing then why go ahead and shove it down people's throats.

Morris Moore, 5005 Pyrenees Pass, stated that he opposed the project. Covert are making a mistake because they are valuing dollars over people and that's a fundamental mistake for any business. They are endangering current residents, their customers, employees and suppliers.

Eric Johnston, 4920 Pyrenees Pass, commented that he was concerned about the safety issues and forcing traffic into the Falconhead West subdivision. The neighborhood is made up of young families and a lot of children.

Steve Albert, 5308 Great Divide, encouraged the Council to deny the preliminary plat presented by Covert. He spoke with an owner of one of the properties along Summit 56 and no one from Covert has contacted him.

Mike McKetta, attorney for the Covert family, stated that every requirement in Chapter 30 of the City's ordinances has been met by this application. The traffic engineer signed off on the TIA agreeing that it met every requirement. The discussion about noise and lighting can be at another time. He encouraged the Council to approve the preliminary plat.

Executive Session:

The City Council closed the Open Session at 9:09 p.m. to convene in Executive Session in the Conference Room.

At this point in the meeting, Mayor Murphy publicly announced that a closed, executive session would be held and identified the sections of the Open Meeting Law under which the meeting would be held.

Open Executive Session. Executive session in accordance with the Texas Government Code, Section 551.071 - Consultation with Attorney in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. The Council may adjourn into the Conference Room for the executive session.

The City Council closed the Executive Session at 9:41 p.m. and reconvened in Regular Session in the Council Chambers.

Mayor Murphy stated that the Council strongly disagrees with Mr. McKetta's interpretation of our City ordinances and they do not believe that the preliminary plat meets our ordinances.

MOTION: A motion was made by Council Member King, seconded by Council Member Bliss, to deny the preliminary plat as submitted by Covert.

The vote was taken on the motion with the following result:

Voting Aye:	Mayor Murphy, Council Members Auslander, Bliss, Goodwin and King
Voting Nay:	None
Absent:	Mayor Pro Tem Braasch

The motion carried.

Executive Session:

The City Council closed the Open Session at 9:42 p.m. to convene in Executive Session in the Conference Room.

At this point in the meeting, Mayor Murphy publicly announced that a closed, executive session would be held and identified the sections of the Open Meeting Law under which the meeting would be held.

Open Executive Session. Executive session in accordance with the Texas Government Code, Section 551-072 – Deliberation regarding real property; Section 551-074 – Personnel; and Section 551.071 - Consultation with Attorney in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. The Council may adjourn into the Conference Room for the executive session.

- A. Discussion regarding possible acquisition of land for municipal purposes.
- B. Evaluation of City Manager Frank Salvato.

The City Council closed the Executive Session at 10:41 p.m. and reconvened in Regular Session in the Council Chambers.

Adjournment.

MOTION: A motion was made by Mayor Murphy, seconded by Council Member Bliss, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye: Mayor Murphy, Council Members Auslander, Bliss, Goodwin and King
Voting Nay: None
Absent: Mayor Pro Tem Braasch

The motion carried.

The City Council adjourned the meeting at 10:41 p.m.

PASSED AND APPROVED THIS _____ DAY OF _____, 2013.

Caroline Murphy, Mayor

ATTEST:

Kaylynn Holloway, City Secretary